



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2008-0408; FRL-9986-64-Region 6]

Air Plan Approval; Texas; Interstate Transport Requirements for the 1997 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving portions of two Texas State Implementation Plan (SIP) submittals that pertain to the good neighbor and interstate transport requirements of the CAA with respect to the 1997 ozone National Ambient Air Quality Standards (NAAQS). The good neighbor provision requires each state, in its SIP, to prohibit emissions that will significantly contribute to nonattainment, or interfere with maintenance, of a NAAQS in other states. In this action, EPA is approving the Texas SIP submittals as having met the requirements of the good neighbor provision for the 1997 ozone NAAQS in accordance with section 110 of the CAA.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2008-0408. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Carl Young, 214-665-6645, young.carl@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our October 3, 2018 proposal (83 FR 49894). In that document we proposed to (1) approve the portions of the April 4, 2008 and May 1, 2008 Texas SIP submittals as they pertain to the requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS, and (2) find that the conclusion in the state’s SIP submittals is consistent with EPA’s conclusion regarding Texas’s good neighbor obligation, that emissions from Texas will not significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in any other state.

We did not receive any adverse comments regarding our proposal. We received two supportive comments regarding the proposal. The first was a comment from the Texas Commission on Environmental Quality which supported the proposal; and the second comment was an anonymous comment stating general support for clean air regulations. The comments are available in the electronic docket for this action.

II. Final Action

We are approving the portions of the April 4, 2008 and May 1, 2008 Texas SIP submittals as they pertain to the requirements of CAA section 110(a)(2)(D)(i)(I) with respect to

the 1997 ozone NAAQS. We find that the conclusion in the state's SIP submittals is consistent with EPA's conclusion regarding the good neighbor obligation, that emissions from Texas will not significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS in any other state. This action is being taken under section 110 of the Act.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Air pollution control, Incorporation by reference, Ozone.

Dated: November 26, 2018.

Anne Idsal,
Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. In §52.2270(e) the second table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by revising the entry for “Infrastructure and Interstate Transport for the 1997 Ozone and the 1997 and 2006 PM_{2.5} NAAQS” to read as follows:

§52.2270 Identification of plan

* * * * *

(e) * * *

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE
TEXAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				

Infrastructure and Interstate Transport for the 1997 Ozone and the 1997 and 2006 PM _{2.5} NAAQS.	Statewide	12/12/2007, 3/11/2008, 4/4/2008, 5/1/2008, 11/23/2009	12/28/2011, 76 FR 81371	Approval for CAA elements 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), and (M). Full approval for CAA elements 110(a)(2)(C), (D)(i)(II), (D)(ii) and (J) with approval of the GHG PSD revision (11/10/2014, 79 FR66626). 1997 and 2006 PM _{2.5} element D(i)(I) approved 5/14/2018, 83 FR 22208. 1997 ozone element D(i)(I) approved [Insert date of publication in the Federal Register], [Insert Federal Register citation]
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